

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3889 of 1996

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

R J SOLANKI

Versus

GOVERNMENT OF GUJARAT

Appearance:

MR BR KYADA for Petitioner

SERVED BY DS for Respondent No. 1

MR DA BAMBHANIA for Respondent No. 2

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 12/08/96

ORAL JUDGEMENT

Rule.

Mr.Bambhania learned A.G.P. waives service of rule. The petitioner is an Assistant Commissioner of Sales Tax seeking promotion to the post of Addl.

Commissioner of Sales Tax. It is the grievance of the petitioner that the petitioner had not been given correct seniority in the cadre of Assistant Commissioners of Sales Tax. However, in view of the directions issued by this court in Special Civil Application No. 1269 of 1993, the petitioner was assigned seniority in the cadre of Assistant Commissioners of Sales Tax below serial No. 58 and above serial No. 59. This exercise was done in the month of April 1996. It is the case of the petitioner that before the aforesaid exercise was done on 24th April, 1996, many Assistant Commissioners of Sales Tax below serial No. 58 have been promoted to the post of Additional Commissioner of Sales Tax. The petitioner therefore, claims that in view of his seniority, he should be given promotion with effect from the date his junior was so promoted. He further claims that one K.U. Parmar at serial No. 78 has been promoted on 25th April, 1994, the petitioner should be given promotion with effect from the said date.

2. Mr. Bambhania, for the respondents has contested the petition and has submitted that the petitioner has been suspended from the service by an order dated 1st February, 1996 and the departmental inquiry has been instituted against him by issuing a chargesheet on 9th February, 1996. The petitioner's case therefore, cannot be considered for further promotion.

3. In view of the instructions issued by the Government, even the case of the government servant under suspension is required to be considered for further promotion. However, the decision thereon cannot be implemented pending departmental inquiry. In the circumstances, the following directions are issued.

1. The respondent shall consider the petitioner's case for promotion to the post of Additional Commissioner of Sales Tax in the ensuing meeting of the Selection Committee.

2. The Selection Committee shall also consider the petitioner's case for such promotion from the date his junior was promoted as an Additional Commissioner of Sales Tax.

3. The decision of the Selection Committee may be placed in a sealed cover, to be opened after the inquiry instituted against the petitioner is completed.

The petition is allowed to the aforesaid extent.
Rule is made absolute accordingly. There shall be no
order as to costs.

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